IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

WP(C).No. 9606 of 2007(R)

PETITIONER:

T.M.ABDUL KADER, THATTARATH HOUSE,
P.O.ALUVA, ERNAKULAM.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

1. **THE EXECUTIVE ENGINEER,**
   ELECTRICAL DIVISION, KSEB, PERUMBAVOOR.

2. **THE DEPUTY TAHSILDAR,**
   REVENUE RECOVERY, ALUVA.

3. **P.D.JAISON, PALIAKKARA HOUSE,**
   CHIYARAM P.O., THRISSUR.

4. **SMT.SHELMY JAISON,**
   PALIAKKARA HOUSE, CHIYARAM P.O., THRISSUR.

5. **KERALA STATE ELECTRICITY BOARD,**
   REPRESENTED BY THE SECRETARY, VAIDYUTHI BHAVAN,
   THIRUVANANTHAPURAM.

BY ADV. SRI.P.P.THAJUDEEN, SC, KSEB for R1 & R5
BY GOVERNMENT PLEADER SMT. N. SUDHA for R2
BY ADV. SRI.A.T.ANILKUMAR for R3 & R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.9606/2007 R

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE NOTARIZED COPY OF THE PARTNERSHIP AGREEMENT DTD. ½/02.**

EXT.P2: **COPY OF NOTARIZED COPY OF THE DEED OF RETIREMENT DTD.1/03/2002.**

EXT.P3: **COPY OF THE NOTICE DTD. 13/03/07.**

/TRUE COPY/

P.A.TO JUDGE

KSS

Thottathil B. Radhakrishnan, J.

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W.P.(C)No. 9606 of 2007

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Dated this the 26th day of September, 2007.

JUDGMENT

Petitioner is the owner of a premise with Consumer No.8037 under LT IV tariff in Electrical Section, Angamaly. According to him, though he started the industrial unit as a proprietory concern, respondents 3 and 4 were later brought in and a firm was constituted and thereafter the petitioner retired from the partnership. He thus attempts to saddle with the responsibility on respondents 3 and 4. It is not the assertion of the writ petitioner that the Board has consented or conceded to any such transaction.

2. On 4-4-2007, there was a direction by this Court to the second respondent to take steps to attach and sell the premises of the defaulted connection and revenue recovery proceedings against the petitioner to be stayed on payment of Rs.50,000/-. It is submitted by the learned Government Pleader that the land belongs to the Industrial Department and revenue recovery

proceedings were taken in consonance with the order dated 4-4-2007 and it was noticed that there was no movables left in the premises.

3. Under the aforesaid circumstances, I do not deem it appropriate in terms of law or justice to let the Board dues be deferred from recovery on the ground of any private disputes between the petitioner and respondents 3 and 4.

In the result, this writ petition is dismissed, however clarifying that this judgment will not prejudice the right, if any of the petitioner, to proceed against respondents 3 and 4 for contribution, if any, in accordance with law.

Thottathil B.Radhakrishnan,
Judge.

sl.